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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,204	04/17/2004	Robert A. Kavalier	Inno-028	1164
29956	7590	10/17/2007		
TIMOTHY P. O'HAGAN 8710 KILKENNY CT FORT MYERS, FL 33912			EXAMINER MAHMOUDZADEH, NIMA	
			ART UNIT 4177	PAPER NUMBER
			MAIL DATE 10/17/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/826,204

Applicant(s)

KAVALER, ROBERT A.

Examiner

Nima Mahmoudzadeh

Art Unit

4177

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-19 is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 04/17/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

1. This application is in condition for allowance except for the following formal matters:

Specification

2. The disclosure is objected to because of the following informalities: On page 4 line 9, statement "the then" should be changed to "than". Further more, on the same page line 26, statement " the then" should be changed to "the". Appropriate correction is required.

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc..

Claim Objections

3. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims

are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

4. Misnumbered claim 15 (line 8 on page 24) needs to be numbered as 16.

Appropriate correction is required.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 25 USPQ 74, 453 O.G. 213, (Comm'r Pat. 1935).

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Allowable Subject Matter

5. Claims 1-19 are allowed.
6. The following is an examiner's statement of reasons for allowance: Smith et al. (US Patent No. 6,862,298) teach adaptive jitter buffer for internet telephony according to claims 1 and 11. However, portion of claims 1 and 11 have been found to be novel and inventive because prior art of record fails to teach a histogram module coupled to each of the output time stamp index and the delay calculation module, the histogram module and method for periodically calculating a target delay value which, based on a buffered history of values representing the delay value of each of a fixed quantity of the most recently received frames from the sequence of receive frames, would have resulted in a predetermined portion of the fixed quantity of frames being dropped, adjusting the jitter buffer latency value to a value equal to the target value, and providing the jitter buffer

latency value to the output time stamp index in combination with all other limitations as recited in independent claims 1 and 11.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ortiz (US Patent Application No. 2004/0052209) teaches methods and systems for jitter minimization in streaming media

Pang et al. (US Patent Application No. 2003/0112758) teach methods and systems for managing variable delays in packet transmission

POGREBINSKY, et al. (US Patent Application No. 2002/0101885) teach JITTER BUFFER AND METHODS FOR CONTROL OF SAME

Borella, et al. (US Patent No. 6,434,606) teach system for real time communication buffer management

8. Any responses to this Office Action should be **faxed** to (571) 273-8300 or **mailed** to:

Commissioner for Patent
P.O. Box 1450
Alexandria, VA 22313-1450

Hand-delivered responses should be brought to
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nima Mahmoudzadeh whose telephone number is (571) 270-3527. The examiner can normally be reached on Monday - Friday 7:30am - 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Benny Q. Tieu can be reached on (571) 272-7490. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nima Mahmoudzadeh

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AU 4471

Benny Q. Tieu
BENNY Q. TIEU
SPE/TRAINER